IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

WP(C).No. 7190 of 2007(E)

OS.352/2000 of MUNSIFF COURT, VAIKOM

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PETITIONER:

BABU THOMAS CHANDY, S/O.LATE THOMAS
CHANDY, KUDIYATH KUZHUPPIL HOUSE,
ERAVIMANGALAM KARA AND POST,
MUTTUCHIRA VILLAGE,VAIKOM TALUK,
KOTTAYAM DISTRICT.

BY ADV. SRI.P.KURUVILLA JACOB

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
THE DISTRICT COLLECTOR, KOTTAYAM.

2. THE CHIEF ENGINEER, PROJECT-II,
IRRIGATION DEPARTMENT,
THIRUVANANTHAPURAM.

3. DIVISIONAL ENGINEER, M.V.I.P.,
KURUPPANTHARA KADAVU,
KURUPPANTHARA POST, KOTTAYAM DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P. Balachandran, J.

W.P.(C)No. 7190 of 2007 E

JUDGMENT

The petitioner is the plaintiff in O.S.No. 352/00 on the file of the Munsiff's Court, Vaikom. It is submitted that I.A.No.353/07 was filed by him seeking amendment of the plaint for a declaration that the land acquisition proceedings initiated by the respondents in relation to a portion of the scheduled property involved in the suit is null and void and that the respondents had filed I.A.No. 307/05 to hear as a preliminary issue the maintainability of the suit.

2. The grievance of the petitioner's counsel is that the matter was heard by the court below on 24.2.2007, on which day, he could not appear in the court below on account of some personal family problems and that hearing the arguments of the defendants only, the court below has taken

I.A.Nos.353/07 and 307/05 for orders to 5.3.2007. It is urged by the counsel for the petitioner that a direction be given to the court below to hear his arguments as well on the side of the petitioner/ plaintiff before disposing of I.A.Nos.353/07 and 307/05. The request so urged is just and reasonable and has to be allowed.

3. In the result, I direct the Munsiff, Vaikom to pass orders on I.A.Nos.353/07 and 307/05 only after hearing the arguments of the petitioner's counsel as well. The petitioner shall be at liberty to produce a copy of this judgment before the Munsiff, Vaikom so as to enable him to comply with the directions issued by this Court as aforesaid. Counsel for the petitioner expresses his anxiety that by the time a copy of this judgment is obtained by him, orders will be passed by the Munsiff on I.A.Nos.353/07 and 307/05. The petitioner is directed to file an affidavit positively in the forenoon of tomorrow, viz.,

3.3.2007, before the Munsiff, Vaikom reporting that the writ petition has been disposed of by this Court directing him to pass orders on I.A.Nos. 353/07 and 307/05 only after hearing the arguments of the petitioner's counsel as well.

The writ petition is disposed of with the above directions.

2nd March, 2007 (K.P.Balachandran, Judge)

tkv